



PROPOSED RULE MAKING

CR-102 (June 2004)

(Implements RCW 34.05.320)

Do NOT use for expedited rule making

Agency: Department of Health

- ☐ Preproposal Statement of Inquiry was filed as WSR _____; or
☐ Expedited Rule Making--Proposed notice was filed as WSR _____; or
☒ Proposal is exempt under RCW 34.05.310(4).

- ☒ Original Notice
☐ Supplemental Notice to WSR _____
☐ Continuance of WSR _____

Title of rule and other identifying information: (Describe Subject) Radiation Protection - Air Emissions WAC 246-247-035
Adoption of national standards for sources of radionuclide air emissions.

Hearing location(s):

Washington State Department of Health
Town Center East, Room 363
101 Israel Road SE
Tumwater, WA 98501

Date: May 10, 2005 Time: 10:00**Submit written comments to:**

Name: A. W. Conklin
Address: WDOH Office of Radiation Protection
P.O. Box 47827, Olympia, WA 98504-7827
e-mail <http://www3.doh.wa.gov/policyreview/>
fax (360)236-2255 by (date) May 10, 2005

Assistance for persons with disabilities: ContactJoy Redman by (360) 236-3260

TTY (888)833-6388 or () _____

Date of intended adoption: May 15, 2005

(Note: This is NOT the effective date)

Purpose of the proposal and its anticipated effects, including any changes in existing rules: This revision is to add a new section (WAC 246-247-035) which adopts by reference, without material change, the federal standards for radionuclide emissions contained in 40CFR61 Subparts A, B, H, I, K, Q, R, T, and W. The effect from this action makes Washington state regulations equivalent to the federal rules and allows delegation of the Environmental Protection Agency's authority over airborne emissions of radionuclides to the Department of Health.

Reasons supporting proposal: Delegation of National Emissions Standards for Hazardous Air Pollutants (NESHAPs) authority from the EPA to the Department of Health reduces the potential for dual regulation of federal and private facilities that are currently under applicable state and federal rules.

Statutory authority for adoption: RCW 70.98.050**Statute being implemented:** RCW 70.98.050**Is rule necessary because of a:**

Federal Law?

☒ Yes ☐ No

Federal Court Decision?

☐ Yes ☐ No

State Court Decision?

☐ Yes ☐ No

If yes, CITATION:

40CFR63 subpart E

DATE

3/29/05

NAME (type or print)

Mary Selecky

SIGNATURE

TITLE

Secretary

CODE REVISER USE ONLY

CODE REVISER'S OFFICE
STATE OF WASHINGTON
FILED

MAR 29 2005

TIME 1127

WSR 05-08-019 (AM) PM

(COMPLETE REVERSE SIDE)

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:

Name of proponent: (person or organization) Washington State Department of Health

- ☐ Private
☐ Public
☒ Governmental

Name of agency personnel responsible for:

Name	Office Location	Phone
Drafting..... John Schmidt	Richland	(509)946-3874
Implementation.... Allen Conklin	Olympia	(360)236-3261
Enforcement..... Allen Conklin	Olympia	(360)236-3261

Has a small business economic impact statement been prepared under chapter 19.85 RCW?

☐ Yes. Attach copy of small business economic impact statement.

A copy of the statement may be obtained by contacting:

Name:
Address:

phone () _____
fax () _____
e-mail _____

☒ No. Explain why no statement was prepared.

This rule is exempt from the requirements of RCW 19.85 pursuant to RCW 19.85.25(3). Further, there are no small businesses within the regulated industry required to comply with the proposed rule and thus there is no disproportionate impact on small businesses.

Is a cost-benefit analysis required under RCW 34.05.328?

☐ Yes A preliminary cost-benefit analysis may be obtained by contacting:

Name:
Address:

phone () _____
fax () _____
e-mail _____

☒ No: Please explain: This rule meets the exception provided in RCW 34.05.328(5)(b)(iii) in that it adopts federal regulations without material change. However, adoption by reference will allow delegation of the applicable subparts to the state for administration and enforcement reducing dual regulation cost.

NEW SECTION

WAC 246-247-035 National standards adopted by reference for sources of radionuclide emissions. (1) The following federal standards, as in effect on July 1, 2004, are adopted by reference except as provided in subsections (2) and (3) of this section.

These standards apply in addition to other requirements of this chapter.

(a) For federal facilities:

(i) 40 CFR Part 61, Subpart A - General Provisions.

(ii) 40 CFR Part 61, Subpart H - National Emission Standards for Emissions of Radionuclides Other Than Radon From Department of Energy Facilities.

(iii) 40 CFR Part 61, Subpart I - National Emission Standards for Radionuclide Emissions From Federal Facilities Other Than Nuclear Regulatory Commission Licensees and Not Covered by Subpart H.

(iv) 40 CFR Part 61, Subpart Q - National Emission Standards for Radon Emissions From Department of Energy Facilities.

(b) For nonfederal facilities:

(i) 40 CFR Part 61, Subpart A - General Provisions.

(ii) 40 CFR Part 61, Subpart B - National Emission Standards for Radon Emissions From Underground Uranium Mines.

(iii) 40 CFR Part 61, Subpart K - National Emission Standards for Radionuclide Emissions From Elemental Phosphorus Plants.

(iv) 40 CFR Part 61, Subpart R - National Emissions Standards for Radon from Phosphogypsum Stacks.

(v) 40 CFR Part 61, Subpart T - National Emission Standards for Radon Emissions From the Disposal of Uranium Mill Tailings.

(vi) 40 CFR Part 61, Subpart W - National Emission Standards for Radon Emissions From Operating Mill Tailings.

(2) References to "Administrator" or "EPA" in 40 CFR Part 61 include the department of health except in any section of 40 CFR Part 61 for which a federal rule or delegation indicates that the authority will not be delegated to the state.

(3) Any change or alternative to standards, emission monitoring and test procedures, compliance and reporting requirements, or recordkeeping requirements must be approved by EPA.

